

TO: JAN 29 2004

VIA FACSIMILE - 1 SHEET  
TO FAX NO. 703-872-9314

OFFICIAL

Attorney Ref: 3300-2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ben Bacque et al.

Serial No. 09/199,786

Filed: November 25, 1998

Group Art Unit 2662

Examiner: Joe Logsdon

For: CONTROLLING ATM LAYER TRANSFER CHARACTERISTICS BASED ON  
PHYSICAL LAYER DYNAMIC RATE ADAPTATIONRE: QUERY AS TO CERTAIN DISCREPANCIES RE "EXAMINER'S ANSWER"Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

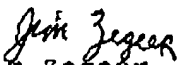
Sir:

The Examiner's Answer in the above-identified application has been received by the undersigned associate attorney.

The following items require clarification:

1. The USPTO cover letter bears a mailing date of: 01/16/2004. The Examiner's Answer bears a mailing date of: Jan. 15, 2004. Which date is correct as to the filing of a Reply Brief by the undersigned attorney?
3. On page 12 of the Examiner's Answer (copy attached with markings), following the signature of Hassan Kizou, Supervisory Patent Examiner, the remaining eight lines, namely, a date line of Monday, June 03, 2002 (which is more than a year and a half ago), 3 listed conferees, etc., and a New York firm which is unknown to both the undersigned associate attorney and the primary attorney, Marks & Clerk, all require clarification. Was that firm a conferee? Was a copy of the Examiner's Answer mailed to that firm?

Respectfully submitted,

  
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Date: January 29, 2004

In the event this paper is deemed not timely filed, the applicant hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account No. 26-0090 along with any other additional fees which may be required with respect to this paper.

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MARKS &amp; CLERK

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With regard to claims 15-20, Appellant again argues that Meurisse et al. fails to teach or suggest that the "transfer characteristics are controlled based on the dynamic adaptation to the physical layer rate variation. But, as argued above, this is an inherent feature of Meurisse et al. Although not explicitly taught by Meurisse et al. or Change et al., "monitoring or measurement of the instantaneous physical layer transport rate and sending to the upstream source a management message including rate information based on the monitored instantaneous physical layer transport rate and adjusting the upstream sources transmission rate responsive to the rate information in the management message in advance of the onset of congestion and cell loss" is an inherent feature of Meurisse et al., as argued above.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Joe Logsdon

Monday, June 03, 2002  
Conferees  
Joe Logsdon  
Hassan Kizou  
Chris Swickhamer

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HASSAN KIZOU  
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